IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3924-2005 (O&M)

RADHEY SHAYAM

.... Appellant

VERSUS

SHIMLA DEVI AND OTHERS

..... Respondents

1.	Judgment reserved on	10.02.2026
2.	Judgment pronounced on	17.04.2026
3.	Judgment uploaded on	17.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	-Nil-

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by : Mr. Deepak Goyat, Advocate
for the appellant.

Mr. Aseem Aggarwal, Advocate
for respondent No.4-NIC.

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YASHVIR SINGH RATHOR, J. (Oral)

1. The present appeal has been instituted by owner of the offending vehicle against the Award dated 05.09.2003 passed in MACT case No.47 of 1999 passed by the Motor Accident Claims Tribunal, Jagadhri (**for short "Tribunal"**) in claim petition titled as **"Shimla Devi and another Vs. Balwan Singh and Others",** vide which a sum of Rs.1,42,000/- has been awarded as compensation to the claimants on

account of death of Bharat Ram payable by respondents jointly and severally. However, it has been ordered that Insurance Company shall pay the compensation along with interest but it shall have the right to recover the same from the insured as vehicle was being driven in violation of the terms and conditions of the insurance policy.

2. Case of claimants is that deceased namely Bharat Ram was employed as a driver on truck No.HRA-7155. On 07.04.1999, he was going from Yamuna Nagar to Paonta Sahib in the said truck. At about 1.00/1.30 PM, he stopped at the bus stand of Chunarpur Kalan for lunch and to change the tyre of his truck. He was crossing the road for going to a shop on the opposite side to get the tyre repaired when truck No.HNR-3182 **(hereinafter referred to as offending vehicle)** being driven at a high speed and in a rash and negligent manner by respondent No.1-Balwan Singh came from the side of Paonta Sahib and hit him. He suffered multiple injuries and was taken to Civil Hospital, Yamuna Nagar where he was declared dead. Police arrived at the spot and recorded the statement of one Ramesh Kumar, who had witnessed the accident and formal FIR Ex.P3 was registered. It is further submitted that deceased used to earn Rs.3500/- per month. The claimants, who are his wife and son were dependent upon him and they claimed a sum of Rs.10,00,000/- as compensation from respondents No.1 to 3, who are the driver, owner and insurer of the offending vehicle.

3. Respondent No.1 did not appear to contest the petition and he was proceeded against ex parte.

4. Respondent No.2 in its written statement has denied the factum of accident and his liability to pay any compensation.

5. Respondent No.3 in its written statement has also denied the factum of accident. An alternative plea has been taken that in case, it is established that accident in question had taken place, the Insurance Company is not liable to pay compensation as respondent No.1 was not holding a valid and effective driving licence on the date of accident.

6. From the pleadings of parties, following issues were framed by the learned Tribunal:-

> *"1. Whether the accident had taken place due to rash and negligent driving of vehicle No.HNR-3182?OPP*
>
> *2. If issue No.1 is proved to what amount of compensation the claimants are entitled to recover and from whom? OP Parties.*
>
> *3. Relief."*

7. Thereafter, the parties led their respective evidence.

8. After hearing the parties and on going through the material on the file, learned Tribunal came to the conclusion that accident in question had taken place on account of rash and negligent driving on the part of respondent No.1 while driving the offending vehicle as well as negligence of the deceased himself and the negligence of both the parties was assessed as 50% each. Under issue No.2, it was held that claimants are entitled to compensation of Rs.1,32,000/- (after deducting 50% amount on account of contributory negligence besides Rs.10,000/- for funeral expenses and loss of consortium). It was held that respondent

No.1 was not having a valid and effective driving licence on the date of accident and Insurance Company was thus not liable to indemnify the insured. However, it was ordered that Insurance Company shall pay the compensation amount and shall have a right to recover the same from the insured.

9. Feeling aggrieved, the present appeal has been filed by the appellant, who is the owner of the offending vehicle. The material on file has been perused and parties have been heard.

10. Learned counsel for the appellant argued that the impugned award passed by the Tribunal is based on conjectures and surmises. The pleadings of the parties and evidence on file have not been appreciated in the correct perspective. Learned counsel next contended that the accident in question had taken place solely on account of negligence of the deceased himself, who abruptly came on the road from behind the truck parked on the roadside. The offending truck was coming from the opposite direction on its due left side and since deceased himself came abruptly in front of the truck, it resulted in the accident and there was no rash and negligent driving on the part of driver of the offending vehicle and finding on issue No.1 is thus liable to be reversed.

11. Learned counsel further contended that Insurance Company has been wrongly exonerated of its liability to indemnify the insured. The driving licence Ex.R1 was initially issued by the Licensing Authority, Meerut which was renewed for the period 08.02.1996 to 07.02.1999 and thereafter, it was renewed from 20.12.2000 to 19.12.2003 by Licensing

Authority, Jind. The Tribunal has given a finding that the license had expired during the period 07.02.1999 to 20.12.1999 and since accident took place on 07.04.1999, driver was not having a valid and effective driving licnece on the date of accident. Learned counsel contended that non-renewal of the driving licence on 07.04.1999 is not so fundamental so as to have contributed to the cause of accident. The licence was subsequently renewed and Insurance Company should thus be held liable to indemnify the insured and no recovery rights should be given to the Insurance Company to recover the amount from the owner/insured.

12. On the other hand, learned counsel for respondent No.4 has argued that the impugned award is legal and valid and the same has been passed by appreciating the facts and evidence on the file in the correct perspective and no interference in the award is called for and has prayed for dismissal of the appeal.

13. In order to prove rash and negligent driving on the part of respondent No.1, claimants have examined PW1 –Sham Lal, who deposed that on 07.04.1999, he was present at his shop at village Chuharpur bus stand. His uncle Bharat Ram was going from Yamuna Nagar to Paonta Sahib and had stopped at Chuharpur bus stand to have lunch and for changing the tyre. At about 1.00/1.30 PM, when his uncle was in the process of crossing the road for going to the other side of the road for repair of the tyre, offending truck No.HNR-3182 came from the side of Paonta Sahib in a rash and negligent manner and hit Bharat Ram. The front wheel of the truck crushed the right leg of his uncle and

thereafter truck struck against another truck parked on the road and stopped. The driver of the offending truck ran away from the spot. During cross-examination, he stated that his shop is situated on the left side of the road while going from Yamuna Nagar towards Paonta Sahib. The road where accident took place is 18 feet wide, which is known as Chhachhrauli-Paonta Sahib road. The truck of his uncle was parked on left side of the road while going Yamuna Nagar towards Paonta Sahib on the berm of the road. His uncle had crossed half of the road when accident took place and his uncle had come out from the backside of his truck. This part of his testimony shows that the offending truck was coming from the opposite direction on the road which is 18 feet wide, meaning thereby, it was a single road and there was no divider in between. The truck of the deceased was parked on the left side and he suddenly came on the road from behind his truck for going to the other side of the road when the accident took place. As such, it can be inferred that deceased did not take care of the incoming traffic from his left side and he abruptly entered the road with a view to cross it, which resulted in the accident. Since, deceased came from behind the truck on the road, he would not have been visible to the driver of the offending vehicle and when he suddenly came on the road, the accident could not be avoided. At the same time, the driver of the offending vehicle too should have been vigilant and should have slowed down his truck while crossing a stationery truck as someone could have emerged on the road from behind the said truck and learned Tribunal has thus rightly held both the deceased as well as driver of the offending vehicle to be equally responsible for the accident in the ratio of 50:50. There is thus no reason to take a contrary view as learned Tribunal has appreciated the facts of the case and evidence on file in the correct perspective and finding on issue No.1 is accordingly affirmed.

14. The next point to be determined is as to whether the Insurance Company has rightly been exonerated of its liability to indemnify the insured or not. The driving licence of respondent No.1 has been led in evidence as Ex.R1. PW2 Satish Kumar Tyagi, Additional Ahlmad in the Court of Judicial Magistrate, Jagadhri has produced the original file arising out of FIR No.53 dated 07.04.1999 under Sections 279 and 304-A of IPC, Police Station Chhachhrauli. He was again examined as RW1 by Insurance Company. He deposed that the old driving licence of driver Balwan Singh is on the file, which is Ex.R1, whose old number is B/10239 issued by Licensing Authority, Jind on 12.01.1986 and renewed by Licensing Authority, Rohtak up to 07.02.1999. Driving licence number 1282/JD/2000 has been issued by Licensing Authority Jind on 20.12.2000 and same is valid up to 19.12.2003 for heavy transport vehicle. He further stated that the file also contains photocopy of another driving licence of Balwan Singh bearing No.B/10239 of Meerut lastly renewed up to 07.02.1999 by Licensing Authority, Rohtak Mark A.

15. RW2 Rajesh Kumar, Licensing Clerk, D.T.O., Jind has produced the original file of the driving licence of the driver Balwan

Singh bearing No.B-10239 issued by Licensing Authority, Meerut and he tendered its true photocopy Ex.R2. He deposed that this licence was lastly renewed by their office vide renewal No.1282/JD/2000 from 20.12.2000 to 19.12.2003 for heavy transport vehicle and Ex.R1 has been issued by their office. He deposed that said licence was not renewed by their office covering the date 07.04.1999. The application for its renewal was moved on 20.12.2000 and renewal fee was also deposited on the same date. The said licence was lastly renewed by Licensing Authority, Rohtak vide renewal No.664/96 for the period 08.02.1996 to 07.02.1999 prior to renewal by Licensing Authority, Jind. He tendered the renewal application Ex.R3, receipt of renewal fee Ex.R4, medical certificate for renewal Ex.R5 and fee receipt for medical Ex.R6. He further deposed that entry in the register regarding renewal No.1282/JD/2000 is dated 20.12.2000.

16. As such, from the evidence led on file, it is established that the licence held by the driver was valid for the period 08.02.1996 to 07.02.1999. The same expired on 07.02.1999 and the accident took place on 07.04.1999. Thereafter, it was got renewed from 20.12.2000 upto 19.12.2003, which shows that the licence had expired on the date of accident i.e. 07.04.1999 and respondent No.1 was thus not possessing a valid and effective driving licence as on the date of accident**.** Learned Tribunal has also appreciated the facts of the case and evidence on file in the correct perspective and has rightly exonerated the Insurance Company of its liability to indemnify the insured with a direction to pay

the amount to the claimants with a right to recover the same from the owner/insured. Finding of the learned Tribunal on issue No.3 thus does not suffer from any patent error or illegality and is thus not liable to be reversed and same is affirmed. In holding so, I have relied upon 2007 ACJ 1067 (SC), **Ishwar Chandra and others Vs. Oriental Insurance Co. Ltd**. a**nd others**, in which case also the driving license of the driver had expired eight months prior to the accident and Hon'ble Supreme Court held that Insurance Company is not liable to indemnify the insured.

17. As a result of aforesaid discussion, there is no merit in this appeal and the same is ordered to be dismissed with costs.

18. Pending miscellaneous application(s), if any, shall also stand disposed of.

17.04.2026 **(YASHVIR SINGH RATHOR)**
Priyanka Thakur **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No